



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 220527-0125]

RTID 0648-XC133

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Extension of Emergency Decisions of the Western and Central Pacific Fisheries Commission

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary specification.

SUMMARY: NMFS is extending the effective date of a temporary specification that implements a short-notice decision of the Commission on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission or WCPFC). NMFS issued temporary specifications on June 11, 2021, to implement short-notice WCPFC decisions regarding purse seine observer coverage, purse seine transshipments at sea, and transshipment observer coverage. NMFS is extending the effective date of the temporary specification on purse seine observer coverage until December 31, 2022. NMFS is also revoking the temporary specification on transshipment observer coverage. NMFS is undertaking this action under the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to satisfy the obligations of the United States as a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention).

DATES: The temporary specification on purse seine observer coverage is in effect from

[Insert date of publication in the *FEDERAL REGISTER*] until December 31, 2022. The temporary specification on transshipment observer coverage is revoked from [Insert date of publication in the *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS Pacific Islands Regional Office, 808-725-5033.

SUPPLEMENTARY INFORMATION: Under authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), NMFS published an interim final rule that established a framework to implement short-notice WCPFC decisions (50 CFR 300.228). NMFS simultaneously issued temporary specifications to implement three short-notice WCPFC decisions until September 14, 2021. Additional background information on the Commission, the Convention, the interim final rule, and temporary specifications, is available in the **Federal Register** document that includes the interim final rule and temporary specifications (86 FR 31178; June 11, 2021). Pursuant to a WCPFC decision, NMFS extended the effective date of the temporary specifications for purse seine observer coverage and transshipment observer coverage until June 10, 2022, and revoked the temporary specification on purse seine transshipment at sea (87 FR 21812; April 13, 2022). Under the interim final rule at 86 FR 31178, temporary specifications can only remain in effect for less than one year. NMFS published a final rule on June 7, 2022, to make final this interim rule, effective on July 7, 2022 (87 FR 34580).

In response to the ongoing COVID-19 pandemic, NMFS published another interim final rule to extend the time period that temporary specifications issued to implement short-notice WCPFC decisions related to the COVID-19 pandemic may remain in effect (87 FR 34584; June 7, 2022). Such temporary specifications may be continued, as appropriate, until December 31, 2023. NMFS simultaneously extended the temporary specifications on purse seine observer coverage and at-sea transshipment observer coverage until July 15, 2022 (87 FR 34584; June 7, 2022).

Based on a recent WCPFC decision, NMFS is now extending the temporary specification on purse seine observer coverage until December 31, 2022, and revoking the temporary specification on transshipment observer coverage.

WCPFC Emergency Decisions

On April 8, 2020, in response to the international concerns over the health of observers and vessel crews due to COVID-19, the Commission made an intersessional decision to suspend the requirements for observer coverage on purse seine vessels on fishing trips in the Convention Area through May 31, 2020. The Commission subsequently extended that decision several times, and the current extension is effective until December 31, 2022.

On April 20, 2020, in response to the international concerns over the health of vessel crews and port officials due to COVID-19, the Commission made an intersessional decision to modify the prohibition on at-sea transshipment for purse seine vessels as follows - purse seine vessels can conduct at-sea transshipment in an area under the jurisdiction of a port State, if transshipment in port cannot be conducted, in accordance with the domestic laws and regulations of the port State. The Commission decided not to extend that decision past March 15, 2022.

On May 13, 2020, in response to the international concerns over the health of observers and vessel crews due to COVID-19, the Commission made an intersessional decision to suspend the requirements for observer coverage for at-sea transshipments. The Commission decided not to extend that decision past June 15, 2022.

Extension of Temporary Specification

NMFS is using the framework as set forth at 50 CFR 300.228 to extend the effective date of the temporary specification implementing one of the three recent WCPFC intersessional decisions (WCPFC decision dated April 8, 2020), described above, that is in effect until December 23, 2022. The regulations to implement short-

notice WCPFC decisions at 50 CFR 300.228 provide that short-notice decisions related to the COVID-19 pandemic may be continued, as appropriate, until December 31, 2023.

Accordingly, the requirements of the following regulations are waived. Such waiver shall remain in effect until December 31, 2022, unless NMFS earlier rescinds this waiver by publication in the **Federal Register**:

- 50 CFR 300.223(e)(1). During the term of this waiver, U.S. purse seine vessels are not required to carry WCPFC observers¹ on all fishing trips in the Convention Area. However, the regulations at 50 CFR 300.215(c)(1) that require all vessels with WCPFC Area Endorsements or for which WCPFC Area Endorsements are required to carry WCPFC observers when directed by NMFS remain in effect.

Revocation of Temporary Specification

NMFS is using the framework as set forth at 50 CFR 300.228 to revoke the temporary specification that implemented the WCPFC decision dated May 13, 2020, to waive the regulations on at-sea transshipment observer coverage at 50 CFR 300.215(d) and 50 CFR 300.216(b)(2).

Classification

NMFS issues this action pursuant to the WCPFC Implementation Act and the regulations at 50 CFR 300.228. This action is exempt from review under Executive Order 12866.

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on the temporary measures included in this action, because prior notice and the opportunity for public comment is unnecessary and would be contrary to the public interest. Opportunity for public comment is unnecessary because

¹ A WCPFC Observer means a person authorized by the Commission in accordance with any procedures established by the Commission to undertake vessel observer duties as part of the Commission's Regional Observer Programme, including an observer deployed as part of a NMFS-administered observer program or as part of another national or sub-regional observer program, provided that such program is authorized by the Commission to be part of the Commission's Regional Observer Programme. See 50 CFR 300.211.

the regulations establishing the framework and providing notice of the Commission's decisions described above have already been subject to notice and public comment, and all that remains is to notify the public of the extension of the Commission decision. NMFS has responded to public comments received on the interim final rule to establish the framework and those Commission decisions in a separate final rule (87 FR 34580; June 7, 2022). NMFS will be responding to any public comments received on the interim final rule to extend the time period to implement WCPFC decision related to the COVID-19 pandemic in a separate final rule (see 87 FR 34584; June 7, 2022)..

For the reasons articulated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective dates for the temporary measures.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: July 8, 2022.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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